

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare-East Godavari District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959 filed by Smt Pebbili Naga Lakshmi W/o Rama Rao R/o Nellipadu (V) Gangavaram (M), East Godavari against the orders of the Agent to Government in CMA No.24/2003 Dated:24-7-2004 – Dismissed – Orders – Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No. 220

Dated:21-11-2008.

Read the following:

1. From B.Srinivasa Reddy, Counsel for the petitioner in Revision Petitioner Dated:12-9-2005.
2. Government Memo No.1314/LTR-2/2006-1 and 2 Dated:3-3-2006.
3. From the Project Officer ITDA, Rampachodavaram CMA 24 of 2003 Dated:1-11-2006.
4. Government Memo No. 1314/LTR-2/2006 Dated:23-8-2007, 3-9-2007 and 6-11-2007.

ORDER:

In the reference 1st read above, Smt. Pebbili Naga Lakshmi W/o Rama Rao has filed a Revision Petition along with stay petition before the Government against the orders of the Agent to Government, Rampachodavaram in CMA No.24/2003 dt:24-7-2004 in respect of lands admeasuring Acres 2.40 in Rs.No.383/2,3 of Nellipadu (V) Gangavaram (M), East Godavari. The main grounds of the appellant in the Revision Petition among others are as hereunder:-

- (a) Petitioner's husband's brother Sri Pebbili Venkanna purchased petition schedule lands i.e. an extent of Ac.0.60 cents in Sy.No.383/3 and an extent of Ac.0.40 cents in Sy.No.383/2 from one Bikkili Appa Rao on 5.7.1969 and devolved upon her after death of Pebbili Venkanna and have been cultivating.
 - (b) No tribal claiming the property and initiation of proceedings after long lapse of time would be highly unjustified.
2. The brief history of the case is that the Special Deputy Collector (TW), initiated proceedings on the petition filed by Special Deputy Tahasildar (TW), Gangavaram (M) Under Section 3 of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1 of 1959, and found that:-
- a) As per registration statistics, Sri Pebbili Rama Rao and Venkanna (NT brothers) purchased Ac.0.40 in Sy.No.383/3+Ac.0.70 in Sy.No.383/2 vide registered sale deed 249/70 from Bikkili Appa Rao (NT) and Pebbili Venkanna i.e. husband of petitioner viz., Smt. Pebbili Nagalakshmi purchased Ac.0.60 in Sy.No.383/2 and Ac.0.70 in Sy.No.383/2 through registered sale deed 954/71 from Smt. Bikkili Ramayamma. As such the balance land in Sy.Nos.383/2 and 383/3 of 1969 were purchased in the years 1970 and 1971.
 - b) The unregistered agreement of 1905 between Pebbili Jangamayya and Bikkili Appala Swamy, boundaries of land in question are entirely different from above and no survey number is mentioned and agreement not registered one. Hence, sale of 1905 is neither related nor has no evidentiary value.
 - c) As per sale deed 1094/69, dt. 5.7.1969 – Pebbili Venkanna i.e. husband of petitioner purchased land of Ac.0.60 in Sy.No.383/3 (out of total Ac.1.60) and Ac.0.40 in Sy.No.383/2 (out of Ac.1.80). Boundaries shown that the lands of 1969 sale are different from lands purchased in the years 1970 and 1971. The sale lands of 1969 are only part fields and balance were purchased later after 1970 and if 1969 sale relates to PS land, there will be no need to make agreement for same land and purchase in 1970 and 1971. Hence, sale deed 1094/69 is not related to the lands in question.

- d) The sale agreement dt. 31.1.1970 covers the land with same boundaries of sale deeds of 1970 and 1971, but did not bear any survey numbers and executed just 3 days before commencement of LTR 1/70 i.e. 3.2.1970 and was unregistered one.
- e) Further, the Nellipudi Mukhasa was abolished and notified to be settled under Regulations 1/1969 (amended by Regulations 2/1969) and the Govt. of Andhra Pradesh in GO Ms.No.1603, Regulations (JA1) Dept. dt. 14.11.1989 and GO Ms.No.855, Rev. (JA1) Dept. dt. 26.9.1991 directed for taking possession of Mokhasa village on behalf of Government under section 3 (e) of Regulations 2/1969 as amended by Regulations 1/1989. The appeals filed by Mokhasadars in WP 15533/91, the Hon'ble High Court dismissed WA 1233/99 on 23.7.1999 and 26.8.1999 respectively. The Hon'ble Supreme Court dismissed SLP 17403/99 as withdrawn. The villages were taken possession by MRO Gangavaram on 11.11.1991 and 12.11.1991. The survey operations were completed and Government ordered for settlement operations in GO Ms.No.1603, Rev. (JA1) Dept. dt. 4.11.1991. As such the absolute ownership is vested with Government only.
- f) Hence, it was held that the land in question i.e. Ac.1.10 of Sy.No.383/2, 3 of sale deed 954/71 and Ac.1.30 of Sy.Nos.383/2, 3 of sale deed 249/70 were balance lands of Survey numbers 383/2, 3 and transaction took place after 3.2.1970 which is null and void after 1/70 (between non-tribals).

Through, the Special Deputy Collector (TW) concluded that the P.S land of Acres 1.10 of Sy.No.383/2, 3 of sale deed 954/71 and Acres 1.30 of Sy.No.383/2, 3 of sale deed No.249/1970 are balance lands of survey numbers 383/2,3 and transaction took place after 3-2-1970 is null and void since transaction took place after Regulation 1/70 between to the non-tribals. The Special Deputy Collector (TW), ordered for ejection of Bikkili Appa Rao and 3 others from P.S lands of part fields of Sy.No.383/2/ 383/3 covered by boundaries in sale deeds 249/70 and 954/71 and for restoration to the Government for onward distribution to eligible tribals and that non-tribe respondent is entitled only for the land of Acres 1.00 covered by 1969 sale and issued proceedings in LTRP No.73/2002 and 91/2002 dt:7-10-2002. Aggrieved by the said order of Special Deputy Collector (TW), an appeal has been filed before the Addl. Agent to Government. The Addl. Agent to Government, Rampachodavaram after perusal of the records held that as per the Regd. Sale deeds No.249/70 and 954/71 the transaction were held between non-tribals in respect of lands situated in scheduled areas after the commencement of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by 1 of 1970. The agreement of sale dt:31-1-1970, is an unregistered one did not contain survey Nos. and has no validity. Therefore the Additional Agent to Government, Rampachodavaram, East Godavari, upheld the order of Special Deputy Collector (TW), Rampachodavaram, in the proceeding LTRP No.73/2002 and 91/2002 dt:7-10-2002. Aggrieved by these orders of Additional Agent to Government a Revision Petition has been filed before the Government.

3. In the reference 2nd read above the Agent to Government, Rampachodavaram was requested to furnish parawise remarks and case records and the same were furnished in the reference 3rd read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 31-8-2007, 17-9-2007 and was finally heard on 20-11-2007. The petitioner was absent and his counsel was present. The Counsel submitted the following written arguments on 28-11-2007.

- i. The authorities failed to see that they have no power to decide genuineness of Sale Agreement in the enquiry that has been initiated under Regulation, 1959.
- ii. The appellate authority erred in setting aside even the lands covered by the Registered Sale Deeds.
- iii. 2nd respondent i.e. Special Deputy Collector (TW), Rampachodavaram restored the land mainly on the ground that the petition schedule lands are Mokhasa Lands and as such the Government is the owner of the property.

4. Government after careful examination of the material evidence on record found that:-

- a. It is not correct to say that the authorities have no power to decide genuineness of Sale Agreement in the enquiry. Without proper verification of correctness of the records such as sale agreements, pahanies etc. it cannot be possible to decide whether the case is hit by LTR or not.
- b. The argument of the counsel that the appellate authority erred in setting aside even the registered sale deeds is also not correct. The Addl. Agent to Govt. & PO ITDA, Rampachodavaram and Special Deputy Collector (TW), Rampachodavaram after thorough examination of the sale agreements/registered sale deeds with reference to the boundaries, held that the registered sale deeds bearing Nos. 249/70 and 954/71 were executed after the regulation 1/70 came into force with effect from 3.2.1970 and the sale agreement dated 31.1.1970 which has no evidentiary value in the eye of law, is created only to circumvent action under LTR provisions.
- c. The arguments advanced by the counsel for petitioner are corroborating with the grounds of RP and no fresh evidence is put before in support of their claims.

5. Therefore, Government finds no reason to interfere with the orders of the Additional Agent to Government and PO ITDA, Rampachodavaram in CMA No.24/2003, dt:24-7-2004 and dismiss the Revision Petition. The stay granted by the Hon'ble High Court of Andhra Pradesh in W.P No. 6310 of 2005 dt:29-7-2005 will become inoperative.

6. The Collector, East Godavari District / Additional Agent to Government, Rampachodavaram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,

Prl. Secretary to Government.

To

The Collector, East Godavari District.

(with RPAD of the following records)

1. Case file CMA No.24/2003 containing 1-40 pages only.
2. Case file LTRP No.73/2002 containing 1-25 pages only.

The Addl. Agent to Government & PO ITDA, RCvaram, East Godavari.

The Special Deputy Collector (TW), Rampachodavaram, East Godavari.

The Mandal Revenue Officer, Gangavaram, East Godavari District.

Sri B.Srinivas Reddy, (Advocate),

Plot No.5, Lakshmi Nagar, Ring Road,
Mehadipatnam, Hyderabad.

Smt Pebbili Nagalaxmi, W/o Rama Rao,

Gangavaram, East Godavari District.

Copy to P.S to M (TW&RAID).

SF / SC

// FORWARDED BY ORDER //

SECTION OFFICER